

Transport and Resources Committee

Report No. 42, 57th Parliament

Subordinate legislation tabled between 23 August 2023 and 10 October 2023

1 Aim of this report

This report summarises the committee's findings following its examination of the subordinate legislation within its portfolio areas tabled between 23 August 2023 and 10 October 2023. It reports on any issues identified by the committee relating to the policy to be given effect by the legislation, fundamental legislative principles and lawfulness. It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA).¹

The report identifies any issues identified by the committee in its consideration of the human rights certificates tabled with the subordinate legislation.²

2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date*
110	Transport Infrastructure (Public Marine Facilities) Regulation 2023	12 September 2023	30 November 2023
111	Transport Operations (Passenger Transport) and Other Legislation Amendment Regulation 2023	12 September 2023	30 November 2023
121	Mineral Resources Amendment Regulation 2023	12 September 2023	30 November 2023
136	Building (Queensland Development Code) Amendment Regulation 2023	10 October 2023	15 February 2024

*Disallowance dates are based on proposed sitting dates as advised by the Leader of the House. These dates are subject to change.

3 Committee consideration of the subordinate legislation

Unless noted below, the committee did not identify any significant issues regarding the policy, consistency with fundamental legislative principles, the lawfulness of the subordinate legislation or non-compliance with the *Human Rights Act 2019* (HRA).

Similarly, the committee considers that the explanatory notes tabled with the subordinate legislation noted in this report comply with the requirements of section 24 of the LSA and that the human rights certificates tabled with the subordinate legislation provide a sufficient level of information to facilitate understanding of the subordinate legislation in relation to their compatibility with the HRA.

¹ *Legislative Standards Act 1992*, Part 4.

² *Human Rights Act 2019*, s 41.

4 Transport Infrastructure (Public Marine Facilities) Regulation 2023

The Transport Infrastructure (Public Marine Facilities) Regulation 2023 (SL No. 110) replaces the Transport Infrastructure (Public Marine Facilities) Regulation 2011 (2011 Regulation).³

The explanatory notes advise that the objective of SL No. 110 is 'to ensure the ongoing safe and efficient operation of public marine facilities in Queensland'.⁴

Like the expired 2011 Regulation, SL No. 110 provides for:

- management and use of, and safety at, public marine facilities
- control of access to and use of boat ramps and landings
- control of activities and conduct in a State-managed boat harbour
- approval of moorings, fish receipt services, fuelling services and transport services undertaken in a State managed boat harbour
- appointment and powers of authorised officers.⁵

4.1 Fundamental legislative principle issues

4.1.1 Rights and liberties of individuals - offences

To have sufficient regard to rights and liberties of individuals, the consequences of legislation should be relevant and proportionate. In line with this, a penalty should be proportionate to the offence, and penalties within legislation should be consistent with each other.⁶

A number of penalties in SL No. 110 are different to those for the equivalent offences in the 2011 Regulation. The explanatory notes advise that this is so the penalties reflect the severity of the offences, improve consistency between offences of similar severity, and ensure compliance with best practice guidelines for infringement notice amounts.⁷

The penalties are based on whether the behaviour sought to be regulated has been classified as:

- Lower risk - 20 penalty units (\$3,096⁸) - infringement notice penalty where prescribed - 2 penalty units (\$309.60). For example, obstructing another person's use of a boat ramp or landing.
- Medium risk - 30 penalty units (\$4,644) - infringement notice penalty where prescribed - 3 penalty units (\$464.40). For example, mooring in a State managed boat harbour without an approval.
- Higher risk – 40 penalty units (\$6,192) – infringement notice penalty where prescribed - 4 penalty units (\$619.20). For example, failure by the holder of a fuelling service approval to comply with the conditions of the approval.⁹

³ The 2011 Regulation automatically expired on 31 August 2023 in accordance with part 7 of the *Statutory Instruments Act 1992*: SL No. 110, explanatory notes, p 1.

⁴ SL No. 110, explanatory notes, p 1.

⁵ SL No. 110, explanatory notes, pp 1-2.

⁶ Office of the Queensland Parliamentary Counsel (OQPC), *Fundamental legislative principles: the OQPC notebook (Notebook)*, 2008, p 120. See also LSA, s 4(2)(a).

⁷ SL No. 110, explanatory notes, p 11.

⁸ The value of a penalty unit is \$154.80: *Penalties and Sentences Regulation 2015*, s 3; *Penalties and Sentences Act 1992*, ss 5, 5A.

⁹ SL No. 110, explanatory notes, pp 11-12.

According to the human rights certificate, the purpose of prescribing infringement notice offences in SL No. 110 is to:

- ensure an efficient means of enforcing the offences
- avoid the cost and inconvenience to the individual and the State associated with appearing in court in relation to offences that are objective in nature
- encourage individuals to comply with the requirements in SL No. 110.¹⁰

The offences appear to be appropriately classified.

Committee comment

We are satisfied that the penalties are proportionate to the offences and consistent with each other, such that SL No. 110 has sufficient regard to the rights and liberties of individuals.

4.1.2 Rights and liberties of individuals – administrative power

Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.¹¹

SL No. 110 enables the chief executive to decide applications for boat harbour approvals,¹² amendments to boat harbour approvals,¹³ and approval of payment arrangements.¹⁴ The chief executive may also amend, suspend or cancel boat harbour approvals.¹⁵

The chief executive may decide to grant the approval with or without conditions, or to refuse to grant the approval. The chief executive may grant the approval only if:

- the chief executive is satisfied the applicant is a suitable person, and
- the chief executive is not restricted from granting the approval under section 26 (Restrictions on grant) of SL No. 110.¹⁶

In determining whether the applicant is a suitable person, the chief executive may, among other matters, have regard to whether the applicant has a conviction¹⁷ for any of the specified offences.¹⁸ The offences include ‘more serious criminal offences and offences against maritime legislation’.¹⁹

The explanatory notes state that boat harbour approval holders ‘are trusted to deal with the public, and they are involved in activities that could raise safety issues, so it is essential that they are of good character’.²⁰

The explanatory notes provide that the ability of the chief executive to impose conditions on approvals ‘allows for appropriate flexibility in the process and ensures that safety requirements can be specifically tailored to individual boat harbour approvals’.²¹

¹⁰ SL No. 110, human rights certificate, pp 9-10.

¹¹ LSA, s 4(3)(a).

¹² SL No. 110, s 28.

¹³ SL No. 110, s 34.

¹⁴ SL No. 110, s 97.

¹⁵ SL No. 110, s 41.

¹⁶ SL No. 110, s 28.

¹⁷ Other than a spent conviction.

¹⁸ SL No. 110, s 28.

¹⁹ SL No. 110, explanatory notes, p 9.

²⁰ SL No. 110, explanatory notes, p 9.

²¹ SL No. 110, explanatory notes, p 9.

SL No. 110 provides grounds for amending, suspending or cancelling boat harbour approvals.²² Before amending, suspending or cancelling a boat harbour approval, the chief executive must give the approval holder a show cause notice.²³ The chief executive must consider any representations made by the holder of the boat harbour approval about the show cause notice.²⁴

SL No. 110 provides for internal and external review of the various decisions.²⁵ A person seeking internal review is entitled to receive a statement of reasons for the original decision, and for the chief executive to review the original decision. If dissatisfied with the reviewed decision, an applicant may apply to the Queensland Civil and Administrative Tribunal for review.²⁶

With respect to boat harbour approvals, the explanatory notes conclude:

To the extent that the proposed Regulation infringes on the fundamental legislative principles, it is considered justified to ensure the chief executive can take into account relevant considerations when determining whether to approve an application for a boat harbour approval with or without conditions. The provision of internal and external review avenues for those whose applications are refused or approved with conditions ensures that appropriate protections are also in place for applicants.²⁷

Committee comment

We sought information from the Department of Transport and Main Roads (DTMR) as to the factors, aside from the presence of certain convictions, that could lead to a decision that an applicant is not a 'suitable person'. DTMR responded that the decision as to whether an applicant is a suitable person to hold a boat harbour approval is:

... primarily based on the person's training and skills and, their time and experience working in the industry. If the applicant cannot show they have the necessary expertise or if the applicant does not hold licences or tickets necessary to conduct the business they intend to at the boat harbour, they are unlikely to be considered a suitable person to hold the approval.

Further, if the applicant has repeatedly breached conditions attaching to the conduct of business in harbours in the past, this may result in a finding by the chief executive that they are not considered a suitable person to hold the approval. As mentioned on page 9 of the Explanatory Notes, the availability of internal and external review avenues for those whose applications are refused based on the suitable person test, ensures that appropriate protections are in place for applicants.²⁸

We are satisfied that the process for determining whether an applicant is a suitable person for boat harbour approvals has sufficient regard to the rights and liberties of individuals.

Rights and liberties of individuals – reversal of onus of proof

The onus of proof should not be reversed in criminal proceedings without adequate justification.²⁹

A number of the offences in SL No. 110 provide that a person must comply with a specified requirement unless the person has a reasonable excuse. For example, it is an offence for a person to fail to comply with a requirement to state their name and address unless the person has a reasonable excuse.³⁰

²² SL No. 110, s 37.

²³ SL No. 110, s 38.

²⁴ SL No. 110, s 39.

²⁵ That is, decisions pursuant to ss 28(1)(a), 28(1)(b), 34(1)(c), 41, 99(1)(a), 99(1)(b). SL No. 110, s 94.

²⁶ SL No. 110, s 94; *Transport Infrastructure Act 1994*, ss 485, 485A, sch 3.

²⁷ SL No. 110, explanatory notes, p 10.

²⁸ Department of Transport and Main Roads, correspondence, 6 November 2023, p 1.

²⁹ LSA, s 4(3)(d).

³⁰ SL No. 110, s 72. See also ss 12, 19, 23, 60, 74, 75, 80, 93.

As explained in the explanatory notes, these provisions impose an evidentiary onus on a person to establish they have a reasonable excuse for failing to comply with the requirements in SL No. 110.³¹

The explanatory notes assert that the reverse onus of proof provisions relating to the powers of authorised officers are justified:³²

While these provisions impose an evidentiary onus on a person to establish that they have a reasonable excuse for failing to comply with requirements in [SL No. 110], these provisions are considered appropriate. This is because they ensure the evidence can be produced by the party best able to satisfy the requirements of the statutory protection. The basis for establishing a reasonable excuse is particularly within the defendant's knowledge and would be more difficult for the State to establish than it would be for the defendant to establish.³³

Committee comment

We sought information from DTMR regarding the justification for reversing the onus of proof. DTMR responded:

Regarding sections 71 to 75, these are offence provisions about the obligation to provide name and address, or to produce or certify documents. These are minor impositions on the customer, triggered in limited circumstances, for example, when the authorised officer reasonably suspects that an offence has occurred. While the offence provisions vary, the same fundamental legislative principle runs through them, that is the element of reasonable excuse.

These provisions are intended to allow potential defendants to point to circumstances to avoid liability in appropriate circumstances. For example, under section 74 a person of whom a document production requirement is made may wish to rely on the reasonable excuse element of the offence if, for example, the document had been destroyed or if the document might tend to incriminate the person.

It is considered appropriate that the person bear the evidential burden in relation to showing they have a reasonable excuse for failing to comply with the requirement. This is because the factual circumstances necessary for establishing the excuse are particularly within the person's knowledge.³⁴

We are satisfied that there is adequate justification for the onus of proof being potentially reversed for a number of the offences under sections 71 to 75 of SL No. 110.

Rights and liberties of individuals - power to enter premises

Legislation should confer power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer.³⁵

SL No. 110 allows authorised officers to enter places and exercise powers, including inspecting anything at the place and taking samples, without a warrant.³⁶

While a warrant is not required to be issued for an authorised officer to enter a place, SL No. 110 limits the circumstances in which an authorised officer may enter; that is, if the occupier consents or if the place is a public place at a time when the place is open to the public, or if the place stated in an approval³⁷ is a place of business and it is open or required to be open for inspection under the approval.³⁸

³¹ SL No. 110, explanatory notes, p 10.

³² The explanatory notes do not discuss other provisions in SL No. 110 which reverse the onus of proof, but presumably the same justification would be applied.

³³ SL No. 110, explanatory notes, p 10.

³⁴ Department of Transport and Main Roads, correspondence, 6 November 2023, p 2.

³⁵ LSA, s 4(3)(e).

³⁶ SL No. 110, ss 63, 70.

³⁷ That is a fuelling service approval or a transport service approval: SL No. 110, explanatory notes, p 10.

³⁸ SL No. 110, s 63(1).

A place of business does not include a part of the place where a person resides.³⁹

If the entry is by consent, the consent may be subject to conditions and may be withdrawn at any time.⁴⁰

The explanatory notes assert that it is necessary for authorised officers to enter places to ensure compliance with SL No. 110 and provide safe services at public marine facilities:

The power to enter a place and exercise a power such as inspecting any part of the place is required to support compliance with [SL No. 110] and the provision of safe services at public marine facilities. For example, there are situations when an authorised officer may need to enter a place to ensure compliance with a condition of approval such as a limit on the number of passengers able to be carried under a transport approval.⁴¹

The explanatory notes identify safeguards in SL No. 110:⁴²

- authorised officers must be appropriately qualified⁴³
- authorised officers must produce or display an identity card when exercising a power⁴⁴
- the privilege against self-incrimination applies to a person asked to produce a specified document⁴⁵ and to a person asked to certify a copy of a document.⁴⁶

Committee comment

In light of the restricted circumstances in which an authorised officer may enter a place and the safeguards identified in the explanatory notes, we are satisfied that SL No. 110 has sufficient regard to rights and liberties of individuals.

4.2 Human rights considerations

We are satisfied that the subordinate legislation is compatible with human rights.

The rights to privacy, freedom of movement, and property rights are discussed below with respect to the public marine facilities regulatory framework.

Freedom of movement

Every person lawfully within Queensland has the right to move freely within the State.⁴⁷

The human rights certificate acknowledges that SL No. 110 may limit the freedom of movement by allowing:

- the chief executive to control activities or conduct in a State managed boat harbour by regulatory notice
- an authorised officer to control movements in a State managed boat harbour by giving a direction.⁴⁸

³⁹ SL No. 110, s 63(2).

⁴⁰ SL No. 110, s 67.

⁴¹ SL No. 110, explanatory notes, p 11.

⁴² SL No. 110, explanatory notes, p 11.

⁴³ SL No. 110, s 54.

⁴⁴ SL No. 110, s 59.

⁴⁵ SL No. 110, s 74(2).

⁴⁶ SL No. 110, s 75(2).

⁴⁷ HRA, s 19.

⁴⁸ SL No. 110, human rights certificate, p 2.

In both instances, examples could be controlling the movement of persons or controlling the movement or mooring of, or activities on or by, a ship.⁴⁹

The chief executive and an authorised officer may only exercise their power to issue regulatory notices and directions, respectively, in certain circumstances.⁵⁰

The purpose of the limitation on the right to freedom of movement is ‘to provide safe, secure, efficient and economically sustainable public marine transport infrastructure, including State managed boat harbours’.⁵¹ The human rights certificate expresses the view that the importance of achieving this purpose outweighs any potential impact on the right to freedom of movement.⁵²

Property rights

A person must not be arbitrarily deprived of their property.⁵³ A substantial restriction on a person’s use or enjoyment of their property can amount to a deprivation of property.⁵⁴

The human rights certificate identifies the following ways in which SL No. 110 potentially limits a person’s property rights:

- allowing the chief executive or an authorised officer to control how certain property can be dealt with in a State managed boat harbour in prescribed circumstances (for example, an authorised officer may take steps to move ships, vehicles or goods that have been left illegally in a State managed boat harbour⁵⁵)
- establishing investigation and enforcement powers for authorised officers including powers to enter places and powers that are exercisable following entry (for example, an authorised officer may enter a boat harbour approval holder’s place of business to investigate whether an activity is occurring other than in accordance with the conditions of their approval).⁵⁶

The purpose of these provisions is to ensure boat harbours are safe and efficient.⁵⁷

The human rights certificate identifies safeguards relating to the provisions including restrictions on when the powers can be exercised, and a requirement that the chief must take reasonable steps to locate the owner of abandoned property.⁵⁸

The human rights certificate concludes that the importance of achieving the purpose outweighs any potential limitation on property rights.⁵⁹

⁴⁹ SL No. 110, ss 22, 23.

⁵⁰ SL No. 110, ss 22, 23; SL No. 110, human rights certificate, p 3. Under section 22, the chief executive may only control the activities or conduct by regulatory notice if the chief executive reasonably believes that giving the regulatory notice is necessary to maintain or improve the safe, secure or efficient operation of, or convenience of users of, a State managed boat harbour or to prevent damage to the environment in the harbour. Under section 23, an authorised officer may only give a direction to a person in a State managed boat harbour if the authorised officer reasonably believes giving the direction is necessary to ensure the safety and security of the harbour, users of the harbour or employees of the department.

⁵¹ SL No. 110, human rights certificate, p 3.

⁵² SL No. 110, human rights certificate, p 4.

⁵³ HRA, s 24.

⁵⁴ Kylie Evans and Nicholas Petrie, *Annotated Queensland Human Rights Act*, Lawbook Co, 2023, p 208.

⁵⁵ SL No. 110, pt 6, div 1; SL No. 110, human rights certificate, p 4.

⁵⁶ SL No. 110, human rights certificate, pp 4, 5. These powers are also discussed above in relation to fundamental legislative principles.

⁵⁷ SL No. 110, human rights certificate, pp 4, 5.

⁵⁸ SL No. 110, human rights certificate, pp 5-6.

⁵⁹ SL No. 110, human rights certificate, p 6.

Right to privacy and reputation

A person has the right not to have their privacy unlawfully or arbitrarily interfered with.⁶⁰

SL No. 110 potentially limits the right to privacy because an authorised officer has the power to require a person to provide personal details and documents that may contain personal information.⁶¹

SL No. 110 limits the circumstances in which an authorised officer may require a person to provide their contact details⁶² and give evidence of the correctness of the stated name or address.⁶³ SL No. 110 also limits the circumstances in which an authorised officer may require a person to make a document available for inspection.⁶⁴ According to the human rights certificate, the requirements around the exercise of these powers mean that any interference with a person's right to privacy will not be arbitrary.⁶⁵

The human rights certificate considers the importance of achieving the purpose of providing for the safe and efficient use of public marine facilities outweighs the potential limitation on the right to privacy.⁶⁶

5 Transport Operations (Passenger Transport) and Other Legislation Amendment Regulation 2023

The Transport Operations (Passenger Transport) and Other Legislation Amendment Regulation 2023 (SL No. 111) addresses 3 key issues: overcharging by taxi drivers; declining availability of services, and levels of service, being provided to Taxi Subsidy Scheme (TSS) members who are required to travel in a wheelchair accessible taxi; and default fares not currently existing on regional urban bus services outside of South East Queensland.⁶⁷

Taximeters

SL No. 111 amends the Transport Operations (Passenger Transport) Regulation 2018 (PT Regulation) and the State Penalties Enforcement Regulation 2014 to address the issue of overcharging by taxi drivers by:

- making it clearer that taxi drivers are required to activate a taximeter to calculate the fare unless the fare for the journey has been pre-agreed

⁶⁰ HRA, s 25.

⁶¹ SL No. 110, explanatory notes, p 6; SL No. 110, ss 71-75.

⁶² SL No. 110, s 71(1). An authorised officer may only require a person to provide their personal details if the officer finds the person committing an offence against SL No. 110, or finds the person in circumstances that lead the officer to reasonably suspect the person has just committed an offence against SL No. 110, or has information that leads the authorised officer to reasonably suspect a person has just committed an offence against SL No. 110.

⁶³ SL No. 110, s 71(3). An authorised officer may require a person to give evidence of the correctness of the stated name or address if the authorised officer reasonably suspects the stated name or address is false.

⁶⁴ The document must be required to be kept under a boat harbour approval, and a person is not required to comply with the requirement if to comply might tend to incriminate the person or expose the person to a penalty. SL No. 110, ss 73, 74(2); SL No. 110, human rights certificate, p 7.

⁶⁵ SL No. 110, human rights certificate, p 7.

⁶⁶ SL No. 110, human rights certificate, p 7.

⁶⁷ SL No. 111, explanatory notes, pp 1-2.

- creating a new requirement to activate a taximeter to apply to a taxi providing any booked hire service or taxi service for which a maximum fare has been gazetted under section 91ZR of the *Transport Operation (Passenger Transport) Act 1994* (PT Act)⁶⁸
- creating offences for:
 - failing to use the taximeter as required in the above circumstances
 - tampering with a taximeter.⁶⁹

Lift payment scheme

SL No. 111 inserts new provisions⁷⁰ in the PT Regulation to strengthen the incentive payment system for taxi drivers and improve services to TSS members who require a wheelchair to travel. It does this by providing:

- a taxi driver is eligible for an amount (a lift payment) for booked hire and taxi services provided to a TSS member who requires a wheelchair to travel
- the lift payment must be paid to the driver within 14 days by an authorised booking entity or an operator of a booked hire or taxi service⁷¹ or the payee will face a maximum penalty of 20 penalty units (\$3,096)
- the chief executive administers the lift payment scheme.⁷²

Default fares

The explanatory notes state that the amendment to section 218M of the PT Regulation:

... enables greater flexibility in the setting of default fares for regional bus services. It provides the option of charging a standard default fare across the regional urban bus network that is up to, but not more than, the maximum fare payable in all regions.⁷³

5.1 Fundamental legislative principle issues

Rights and liberties of individuals – new offences

To have sufficient regard to rights and liberties of individuals, the consequences of legislation should be relevant and proportionate. In line with this, a penalty should be proportionate to the offence, and penalties within legislation should be consistent with each other.⁷⁴

As noted above, SL No. 111 introduces 3 new offences:

- failing to use the taximeter – maximum penalty 20 penalty units (\$3,096) – infringement notice penalty – 2 penalty units (\$309.60)⁷⁵
- tampering with a taximeter – maximum penalty 40 penalty units (\$6,192) – infringement notice penalty – 4 penalty units (\$619.20)⁷⁶

⁶⁸ The explanatory notes (p 2) advise that requiring the taximeter to display the maximum fare will ensure the driver does not breach section 91ZR of the PT Act by charging an agreed fare that exceeds the maximum fare for the journey.

⁶⁹ SL No. 111, explanatory notes, pp 2-3; SL No. 111, ss 3-7.

⁷⁰ Pt 6 div 7A (Lift payment scheme).

⁷¹ Unless they have a reasonable excuse.

⁷² SL No. 111, explanatory notes, p 3; SL No. 111, s 8.

⁷³ SL No. 111, explanatory notes, p 3.

⁷⁴ OQPC, *Notebook*, 2008, p 120. See also LSA, s 4(2)(a).

⁷⁵ SL No. 111, ss 4, 6.

⁷⁶ SL No. 111, ss 4, 7.

- failing to give lift payment to taxi driver – maximum penalty 20 penalty units (\$3096) – infringement notice penalty – 2 penalty units (\$309.60).⁷⁷

The first and second offences listed above are intended to provide ‘greater confidence and protection for taxi passengers that they will not be overcharged and to provide evidence of the journey and the fare charged to a passenger’.⁷⁸ The third listed offence is to ensure the relevant driver ‘receives the full benefit of the incentive payment, and consequently increase the service reliability issues for TSS members who require a wheelchair to travel’.⁷⁹

The human rights certificate identifies benefits of providing for the issuing of an infringement notice: it allows for ‘the effective and efficient prosecution of alleged offences without requiring a court appearance by the alleged offender’, saving time for both the offender and the court, and it retains ‘the person’s entitlement to a court hearing if they choose’.⁸⁰

Committee comment

We are satisfied that the penalties for the new offences have sufficient regard to the rights and liberties of individuals because they are consistent with existing penalty amounts in the PT Regulation and appear to be proportionate to the offences.

Institution of Parliament – power to set default fares

Subordinate legislation should allow the subdelegation of a power delegated by an Act only in appropriate cases and to appropriate persons.⁸¹

SL No. 111 permits the chief executive to decide the maximum amount payable for the use or hire of a relevant public passenger vehicle and publish it on the Department of Transport and Main Road’s (department’s) website.⁸²

The explanatory notes consider this to be an appropriate subdelegation of power because:

... the chief executive is an appropriately qualified officer of the administering department. In addition, administrative decisions made by the chief executive are subject to a range of accountability mechanisms such as those under the Judicial Review Act 1991 and the Ombudsman Act 2001.⁸³

Committee comment

We are satisfied that the chief executive is an appropriate person to determine the maximum amount payable for the use or hire of a relevant public passenger vehicle.

5.2 Human rights considerations

The committee considers that the subordinate legislation raises no human rights issues.

⁷⁷ SL No. 111, ss 4, 8.

⁷⁸ SL No. 111, human rights certificate, p 3.

⁷⁹ SL No. 111, human rights certificate, p 3.

⁸⁰ SL No. 111, human rights certificate, p 3.

⁸¹ LSA, s 4(5)(e).

⁸² SL No. 111, s 9. Default fare amounts are found on the Queensland Government’s translink website: <https://translink.com.au/tickets-and-fares/fares-and-zones/fixed-fare>.

⁸³ SL No. 111, explanatory notes, p 5.

6 Mineral Resources Amendment Regulation 2023

The Mineral Resources Amendment Regulation 2023 (SL No. 121) implements an action from the Queensland Critical Minerals Strategy. That is, SL No. 121 reduces the rent for existing and new exploration permits for a mineral other than coal (EPM)⁸⁴ from \$167.70 to \$0 for 5 years.⁸⁵

The reduction in rent for EPMs is intended to ‘incentivise companies to invest in Queensland and provide them more upfront capital to fund exploration activity’.⁸⁶ This is expected to stimulate the critical minerals sector and support new mineral discoveries.⁸⁷

The Queensland Government will forgo approximately \$55 million in revenue as a result of the reduced rent.⁸⁸

The committee identified no issues regarding the subordinate legislation’s consistency with fundamental legislative principle or its lawfulness and considers that it raises no human rights issues.

7 Building (Queensland Development Code) Amendment Regulation 2023

The National Construction Code 2022 (NCC 2022) sets out the minimum technical design and construction requirements for buildings, including plumbing and drainage, across Australia. The NCC is given legal effect in Queensland through a suite of building legislation⁸⁹ and can be varied in Queensland through statutory instruments, such as the Queensland Development Code.⁹⁰

The NCC 2022 generally took effect from 1 May 2023, except for provisions relating to livable housing design, including the Livable Housing Design Standard (LHDS), and the residential energy efficiency provisions which commenced from 1 October 2023.⁹¹

The Building (Queensland Development Code) Amendment Regulation (SL No. 136):

- amends the Queensland Development Code in relation to Sustainable buildings to better align with the NDC 2022 energy efficiency requirements for new dwellings
- adopts a new section of the Queensland Development Code – Livable dwellings and grading to floor wastes – to facilitate introduction of the LHDS and provide variations to the NCC 2022 requirements for grading to floor wastes.⁹²

Notably, SL No. 136 changes Queensland’s date of adoption of the residential energy efficiency provisions in the NDC 2022 from 1 October 2023 to 1 May 2024.⁹³ It also provides an 18 month extension (from 1 October 2023 to 31 March 2025) from the LHDS for certain narrow lots and small pre-built houses, and other exemptions and additional compliance solutions for bathrooms, toilets, showers and graded floor wastes.⁹⁴

⁸⁴ For each sub-block to which the exploration permit applies.

⁸⁵ SL No. 121, explanatory notes, p 1; Mineral Resources Regulation 2013, sch 4, item 2; Queensland Government, *Queensland Critical Minerals Strategy*, p. 14, https://www.resources.qld.gov.au/_data/assets/pdf_file/0005/1726430/critical-minerals-strategy.pdf.

⁸⁶ SL No. 121, explanatory notes, p 1.

⁸⁷ SL No. 121, explanatory notes, p 1.

⁸⁸ SL No. 121, explanatory notes, p 2.

⁸⁹ For example, the *Building Act 1975*, *Plumbing and Drainage Act 2018*, and associated subordinate legislation, including the Building Regulation 2021.

⁹⁰ SL No. 136, human rights certificate, p 1.

⁹¹ SL No. 136, human rights certificate, p 1.

⁹² SL No. 136, s 4; SL No. 136 explanatory notes, p 1.

⁹³ SL No. 136 explanatory notes, p 2.

⁹⁴ SL No. 136 explanatory notes, pp 3, 5.

The committee identified no issues regarding the subordinate legislation's consistency with fundamental legislative principle or its lawfulness and considers that it raises no human rights issues.

8 Recommendation

The committee recommends that the House notes this report.



Shane King MP

Chair

November 2023

Transport and Resources Committee

Chair

Deputy Chair

Members

Mr Shane King MP, Member for Kurwongbah

Mr Lachlan Millar MP, Member for Gregory

Mr Bryson Head MP, Member for Callide

Ms Joan Pease MP, Member for Lytton

Mr Les Walker MP, Member for Mundingburra

Mr Trevor Watts MP, Member for Toowoomba North